

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of Petitions

of

ARCHIE ENTERPRISES, INC.  
ARCHIE MUSIC CORP.  
ARCHIE COMIC PUBLICATIONS, INC.  
THAT WILKIN BOY, INC.

for redetermination of deficiencies  
or for refund of franchise tax under  
Article 9-A of the tax law for the  
fiscal years ended 1/31/70 to 1/30/72,  
inclusive.  
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Petitions having been filed in this matter and a hearing  
having been held at the office of the State Tax Commission, 2 World  
Trade Center, New York City, at which hearing J. E. Rosenberg, Esq.  
of counsel, and L. L. Radin, certified public accountant, appeared  
and the record having been duly examined and considered by the State  
Tax Commission,

It is hereby found:

(1) The four affiliated corporations herein filed  
petitions for redetermination of deficiencies or for refund of  
franchise tax as follows:

	1/31/70	Fiscal Years Ended	1/31/72
	<u>Refund</u>	<u>1/31/71</u> <u>Deficiency</u>	<u>Deficiency</u>
Archie Enterprises, Inc.	-0-	\$1,439.68	\$1,967.25
Archie Music Corp.	\$5,552.66	4,946.72	7,567.00
Archie Comic Publications, Inc.	4,194.19	5,034.33	6,370.00
That Wilkin Boy, Inc.	-0-	700.24	518.00

The Corporation Tax Bureau denied claims for refund and  
issued notices of deficiency in the amounts indicated above on the  
basis that none of the corporations had a regular place of business  
outside New York State so as to qualify for an allocation of  
business income.

(2) The four corporations ("Archie Comics") were incorporated in New York, are engaged in the publication and sale of comic magazines and operate from the same address at 1116 First Avenue, New York City. The sequential steps in the publication and sale of the magazines are as follows:

The original comic book art work is prepared in black and white at the New York City office of Archie Comics and then sent to an independent contractor, Chemical Color Plate Corp. ("Color Plate"), located in Bridgeport, Connecticut. The latter begins the production of the color plates which are used in printing the cover and contents of the magazines. Color Plate prepares silver prints from the black and white art work and sends them to Archie Comics. Colors are added in New York City to the silver prints (referred to as "color guides") and returned to Bridgeport, Connecticut. The color guides are eventually made into color plates from which the magazines are printed. The color plates are shipped from Bridgeport, Connecticut to another independent contractor, Spartan Printing Co. ("Spartan") located in Sparta, Illinois. Spartan is a division of World Color Press, Inc. ("World").

The contract between Archie Comics and World provides that the latter shall furnish paper, print, bind and prepare for shipment the number of copies ordered by Archie Comics. The price is so much per thousand for the first 250,000 copies and a lesser amount per thousand for additional copies. The distribution of the magazines is handled by another independent contractor, MacFadden-Bartell Corporation, with headquarters in New York City.

None of the four corporations file income or franchise tax returns in any other state.

(3) Section 210.3(a)(4) of the tax law reads in part:

"provided, however, that if the taxpayer does not have a regular place of business outside the state other than a statutory office, the business allocation percentage shall be one hundred per cent;"

(4) Section 4.11(b) of Ruling of the State Tax Commission dated March 14, 1962 states in part:

"A regular place of business is any bona fide office (other than a statutory office), factory, warehouse or other space which is regularly used by the taxpayer in carrying on its business. Where as a regular course of business, property of the taxpayer is stored by it in a public warehouse until it is shipped to customers, such warehouse is considered a regular place of business of the taxpayer and, where as a regular course of business, raw material or partially finished goods of a taxpayer are delivered to an independent contractor to be converted, processed, finished or improved, and the finished goods remain in the possession of the independent contractor until shipped to customers, the plant of such independent contractor is considered a regular place of business of the taxpayer."

The State Tax Commission hereby

DECIDES:

(A) The Illinois plant of the independent contractor, Spartan division of World Color Press, Inc., does not qualify as a regular place of business of the taxpayers, since no raw material or partially finished goods of the taxpayers are shipped to that location for processing. The taxpayers merely furnish the color plates from which the magazines are printed. Spartan supplies the paper, ink, etc. that make up the finished product (magazines), which is purchased by the taxpayers pursuant to contract. Spartan is, in essence, a source of supply. The location of a supplier does not qualify as a regular place of business of the taxpayers.

(B) The petitions for refund are denied and the notices of deficiency indicated at (1) are affirmed, together with interest in accordance with Section 1084 of Article 27 of the tax law.

Dated: Albany, New York

this 25th Day of February 1975.

STATE TAX COMMISSION

  
President

  
Commissioner

  
Commissioner